

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOSEPH A. FOISTER,
Petitioner,

v.

FMC DEVENS WARDEN
Respondent.

Civil Action No. 24-10555-JCB

ORDER

March 14, 2024

Boal, M.J.

Joseph A. Foistner (“Petitioner” or “Foistner”), an inmate serving a federal sentence at FMC Devens, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C § 2241 with the United States District Court for the District of New Hampshire. Docket No. 1. By Notice dated January 4, 2024, Petitioner was advised that he must, within 60 days, either pay the \$5 filing fee or file an application to proceed without fees or costs. Notice, No 1:24-cv-0003 (D.N.H. Jan 4, 2024). On January 5, 2024, a Report and Recommendation issued recommending, among other things, that the Section 2241 petition be transferred to the District of Massachusetts. Docket No. 2, Report and Recommendation, No 1:24-cv-0003 (D.N.H. Jan. 5, 2024). By Order, dated February 29, 2024, the Report and Recommendation was approved and the case was ordered transferred to this district. Docket No. 3, Order, No 1:24-cv-0003 (D.N.H. Feb. 29, 2024).

Accordingly, this Court orders as follows:

1. Within 21 days of this Order, Petitioner shall either (1) pay the \$5.00 filing fee; or (2) file a motion to proceed in forma pauperis, that is, file an application to proceed in district court

without prepaying fees or costs accompanied by a certified prison account statement. Failure of the Petitioner to comply with this directive may result in dismissal of this action.

2. The Clerk of this Court shall serve a copy of the Petition on the Respondent and the United States Attorney for the District of Massachusetts.

3. The Respondent shall file an answer or other responsive pleading within 21 days of either (1) the Petitioner's payment of the \$5 filing fee; or (2) this Court's granting of a motion to proceed in forma pauperis.

4. Because this action was randomly assigned to this Court pursuant to the District Court's Consent Program, the Clerk shall provide the Petitioner with the form for Consent/Refusal of Magistrate Judge Jurisdiction and the instructions for that form.

SO ORDERED.

/s/ Jennifer C. Boal
JENNIFER C. BOAL
United States Magistrate Judge